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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/831,859	12/03/2001	Lee D. Arnold	BBC-059/A	9803

7590                    07/22/2003

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EXAMINER
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AULAKH, CHARANJIT

ART UNIT	PAPER NUMBER
1625	

DATE MAILED: 07/22/2003

*LK*

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.  
09/831,859

Applicant(s)

Arnold, L. et al.

Examiner

CHARANJIT AULAKH

Art Unit

1625



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on Jun 3, 2003

2a)  This action is FINAL.      2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

4)  Claim(s) 1-13, 15-25, and 27-29 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-13, 15-25, and 27-29 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

1)  Notice of References Cited (PTO-892)

2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2

4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_\_

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### **DETAILED ACTION**

1. According to paper no. 21 filed on June 3, 2003, the applicants have amended claim 1.
2. Claims 1-13, 15-25 and 27-29 are pending in the application.

#### *Response to Arguments*

3. Applicant's arguments filed on June 3, 2003 ( paper no. 21 ) have been fully considered but they are not persuasive regarding enablement, indefiniteness and prior art rejection over Arnold's reference. The examiner agrees with the applicants arguments regarding Doyle's reference that it does not constitute a prior art reference. In regard to enablement, the examiner does not agree with the applicants arguments that the instant claims are directed to identifying a compound that selectively inhibits cellular signalling function of KDR. Actually, the claims are directed to inhibiting vascular hyperpermeability and therefore, treating various disease states using specific compound. The examiner also does not agree with the applicants arguments that it will be routine experiment to select these compounds without undue experimentation. There are unlimited ( millions of compounds ) compounds available in the prior art and to test each of these compounds in these assays to find specific compound which selectively inhibits cellular signalling function of KDR and then use this compound to inhibit vascular hyperpermeability in a patient will require undue experimentation. In regard to indefiniteness rejection, the examiner does not agree with the applicants arguments that the claims are definite. The fact is that one has to find a compound from millions and billions of compounds available in the prior art which

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selectively inhibits cellular signalling function of KDR. There has to be some central core present in the structure of a compound which is critical for this inhibition and therefore, structure of the compound is important to be part of the claim. In regard to prior art rejection over Arnold's reference, the examiner does not agree with the applicants arguments that this reference does not anticipate the instant claims. Claim 1 is directed to inhibition of tyrosine kinase activity using certain compounds and claim 8 is directed to specific tyrosine kinase which affects vascular hyperpermeability and therefore, clearly anticipates the instant claims.

### ***Conclusion***

4. Rejections under 35 U.S.C. 112, first paragraph and second paragraph as well as under 35 U.S.C. 102(e) over Arnold's reference are maintained for the reasons of record.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however,

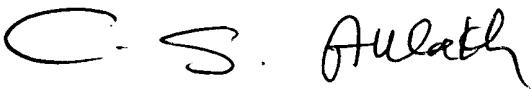
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will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chana Aulakh whose telephone number is (703) 305-4482. The examiner can normally be reached on "Monday-Thursday" from 7:30 A.M. to 6:00 P.M.

If the attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Alan Rotman, can be reached on (703) 308-4698. The fax number for this Group is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group's receptionist whose telephone number is (703) 308-1235.

  
CHARANJIT S. AULAKH

PRIMARY EXAMINER